UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOSE DEL-ORDEN, on behalf of himself and all others similarly situated, Plaintiff, -against- EATALY AMERICA, INC.., Defendant.	Case No.: 16-cv-2361: **AFFIDAVIT**

STATE OF NEW YORK)
) **S.S.**
COUNTY OF NEW YORK)

Franco Denari, being duly sworn depose and say the following:

1. I am the Executive Digital Director for Eataly USA ("Eataly") and as such I am authorized to give this affidavit.

2. I am familiar with the facts of this case through my discussions with Eataly's attorneys and through my daily activities while serving in my position as Executive Digital Director for Eataly USA.

3. Eataly is an Italian marketplace comprising a variety of restaurants, food and beverage counters, bakery, retail items, and a cooking school.

4. Eataly's restaurants and stores comply with the provisions of the Americans with Disabilities Act and there are no physical barriers that prevent disabled patrons from availing themselves of the goods and services that are found at our physical locations.

5. Eataly.com is an internet website. It is used for various purposes including, among other things, the sale of certain goods and merchandise.

6. The marketplace/restaurants are operated separately from the website. To access the goods sold through the restaurant it is not necessary to use the website.

7. Eataly has never refused to sell products or services to anyone through its website because of a person's race, nationality, religion, gender, sexual preference or identity, or because of a person's disability.

8. Eataly's customer service representatives are able to assist customers who have difficulty using the website. Eataly has not discriminated against the plaintiff and is willing to sell him any of the good or services available online or through its physical locations.

9. Because Eataly.com is a website and because the website is not necessary to access the goods and services available at Eataly's restaurants and stores, it not a place of public accommodation" as that term is defined by law. As such, the plaintiff's action should be dismissed.

FRANCO DENARI

STATE OF NEW YORK)
) **s.s.**
COUNTY OF NEW YORK)

On March 22, 2017 before me personally came **FRANCO DENARI** to me known, who, by me duly sworn, did depose and say that deponent is a representative of Eataly America, Inc., the corporations described herein, and which executed the foregoing **AFFIDAVIT**, and acknowledged to me that he/she executed same.

NOTARY PUBLIC

JULIE LEE
Notary Public, State of New York
No. 01LE6334931
Qualified in New York County
Commission Expires 12/28/2019

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